

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION  
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UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 1:18-CV-111

FIFTY-SIX (56) ASSORTED FIREARMS,

Defendant.

**VERIFIED COMPLAINT FOR FORFEITURE IN REM**

NOW COMES Plaintiff, United States of America, by and through its attorneys, Andrew Byerly Birge, United States Attorney for the Western District of Michigan, and Joel S. Fauson, Assistant United States Attorney, and states upon information and belief in support of this Verified Complaint for Forfeiture *In Rem* that:

1. This Complaint is a civil forfeiture action filed pursuant to 18 U.S.C. § 924(d)(1), against the following 56 assorted firearms (collectively, the “Defendant Firearms”):

Firearm Number	Name & Description	Caliber/Serial Number	Asset ID
F1	Harrington & Richardson Topper shotgun	CAL:12 SN:BB489254	17-ATF-027295
F2	Winchester 9422 Rifle	CAL:22 SN:F27931	17-ATF-027302
F3	Winchester 94 Rifle	CAL:44 SN:3226992M	17-ATF-027303
F4	Browning Gold Hunter Shotgun	CAL:12 SN:113MM26564	17-ATF-027339
F5	Smith & Wesson 22S Pistol	CAL:22 SN:UAT6818	17-ATF-027353

F6	Colt Defender Pistol	CAL:45 SN:DP2092	17-ATF-027354
F7	Beretta USA Corp 92FS Pistol	CAL:9 SN:BER174592	17-ATF-027357
F8	Colt Anaconda Pistol	CAL: Unknown SN:MM65408	17-ATF-027359
F9	Colt Government Pistol	CAL:45 SN:CG20201E	17-ATF-027364
F10	Colt MK IV Mustang Pistol	CAL:380 SN:MS15351	17-ATF-027366
F11	Ruger P89DC Pistol	CAL:9 SN:309-42837	17-ATF-027368
F12	Colt Cobra Revolver	CAL:32 SN:232765	17-ATF-027371
F13	Colt MK IV Pistol	CAL:45 SN: SN:SS14774	17-ATF-027373
F14	Bushmaster Firearms XM15-E2S Rifle	CAL:223 SN:BK1802796	17-ATF-027399
F15	Bushmaster Firearms XM15-E2S Rifle	CAL:223 SN:BFH001181	17-ATF-027404
F16	Browning Shotgun	CAL:12 SN:NWTF010085	17-ATF-027408
F17	Smith & Wesson M&P 15 Rifle	CAL:556 SN:SY03439	17-ATF-027414
F18	Remington Arms Company, Inc. 870 Express Shotgun	CAL:20 SN: B911315U	17-ATF-027419
F19	Remington Arms Company, Inc. 1100 Shotgun	CAL:12 SN:R064004V	17-ATF-027423
F20	Marlin Firearms Co. 1895 Rifle	CAL:45-70 SN:MR14522F	17-ATF-027425
F21	Remington Arms Company, Inc. 597 Rifle	CAL:22 SN:A2629086	17-ATF-027427
F22	Ruger 10/22 Rifle	CAL:22 SN:252-91369	17-ATF-027430
F23	Remington Arms Company, Inc. 552 Rifle	CAL:22 SN:B1588149	17-ATF-027434
F24	Henry Repeating Rifle Company H004 Golden Boy Rifle	CAL:22 SN: GB482103	17-ATF-027437
F25	Henry Repeating Rifle Company H006C Big Boy Rifle	CAL:45 SN: BB0056926C	17-ATF-027441

F26	Henry Repeating Rifle Company H001Y Lever Youth Rifle	CAL:22 SN: Y053785H	17-ATF-027446
F27	Winchester 1300 Shotgun	CAL:12 SN:L3251769	17-ATF-027449
F28	Henry Repeating Rifle Company H001M Lever Mag Rifle	CAL:22 SN: M061733H	17-ATF-027452
F29	Henry Repeating Rifle Company H001 Lever Action Rifle	CAL:22 SN: 853298H	17-ATF-027453
F30	Remington Arms Company, Inc. 1100 Shotgun	CAL:28 SN:L183896J	17-ATF-027456
F31	Winchester 94 Rifle	CAL:30 SN:1262070	17-ATF-027457
F32	Herington & Richardson 1871 Pardner Pump Shotgun	CAL:12 SN:NZ780603	17-ATF-027459
F33	Remington Arms Company, Inc. 1100 Shotgun	CAL:12 SN:N719746V	17-ATF-027460
F34	Winchester Unknown Rifle	CAL:30-30 SN:68530	17-ATF-027461
F35	Remington Arms Company, Inc. 870 Shotgun	CAL:12 SN:V255749M	17-ATF-027462
F36	Savage 62 Rifle	CAL:22 SN:L352146	17-ATF-027463
F37	Springfield Armory 1911A1 Pistol	CAL:45 SN:NM486872	17-ATF-027470
F38	Colt Mustang XSP Pistol	CAL:380 SN:MP03793	17-ATF-027471
F39	Colt 1991A1 Pistol	CAL:45 SN:2811083	17-ATF-027473
F40	Walther P99 Pistol	CAL:40 SN:411192	17-ATF-027474
F41	Smith & Wesson M&P 9 Pistol	CAL:9 SN:DXC3046	17-ATF-027475
F42	Walther P22 Pistol	CAL:22 SN:L010036	17-ATF-027477
F43	Ruger P90 Pistol	CAL:45 SN:662-02379	17-ATF-027479
F44	Winchester 94 Rifle	CAL:32 SN:1906911	17-ATF-027482



F45	Winchester 94 Rifle	CAL:30-30 SN:2279007	17-ATF-027483
F46	Winchester 94 Rifle	CAL:30 SN: 1572632	17-ATF-027485
F47	Savage 93R17 Rifle	CAL:17 SN:2343249	17-ATF-027490
F48	Winchester 1300 Shotgun	CAL:20 SN:L3366899	17-ATF-027495
F49	Remington Arms Company, Inc. 1100 Shotgun	CAL:410 SN:L180481H	17-ATF-027500
F50	Colt M4 Rifle	CAL: 5.56 SN:LE147676	17-ATF-027511
F51	Winchester 94 Rifle	CAL:32 SN:1483967	17-ATF-027512
F52	Remington Arms Company, Inc. 870 Shotgun	CAL:12 SN:B922847M	17-ATF-027514
F53	Beretta AL2 Shotgun	CAL: 12 SN: G27045	17-ATF-027308
F54	Winchester 94 Rifle	CAL: 30-30 SN: TR16789	17-ATF-027310
F55	Marlin 25MN Shotgun	CAL: 22WMR SN: 03415614	17-ATF-027492
F56	Smith & Wesson 66-4	CAL: 357 SN: BSP7746	17-ATF-027467

### **JURISDICTION AND VENUE**

2. The Court has original jurisdiction over this proceeding pursuant to 28 U.S.C. § 1345, as this action is being commenced by the United States of America as Plaintiff.

3. This Court has jurisdiction over this forfeiture action pursuant to 28 U.S.C. §1355(b)(1)(A), as the acts giving rise to the forfeiture occurred in the Western District of Michigan.

4. Venue is proper before this Court pursuant to 28 U.S.C. § 1395(b), as the defendant property is located within the Western District of Michigan.

### **THE DEFENDANTS-IN-REM**

5. On or about September 7, 2017, Special Agents with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) seized the Defendant Firearms during the search of Rimfire Resale and Pawn, LLC located at 4601 134th Avenue, Hamilton, Michigan pursuant to a federal search warrant. The Defendant Firearms are currently in the custody of ATF in Grand Rapids, Michigan.

6. As set forth below, the Government alleges that the Defendant Firearms are subject to forfeiture to the United States pursuant to 18 U.S.C. §924(d)(1) because they were involved in a willful violation of 18 U.S.C. §922(m).

### **BACKGROUND**

7. The Gun Control Act, 18 U.S.C. § 921 *et seq.*, makes it unlawful for any person other than a licensed dealer to engage in the business of dealing in firearms. The responsibility for enforcing the Gun Control Act, including the provisions related to federal firearms licensees (“FFLs”), has been delegated to ATF.

8. Among other things, FFLs are required to record their acquisition and disposition of every firearm in an acquisition and disposition (“A&D”) record and to maintain the A&D record at their licensed business premises. For each firearm taken into and transferred out of inventory, the FFL is required to record the make, model, serial number, type and caliber or gauge of the firearm; the date of acquisition; the name and address (or federal firearms license number) from whom the firearm was acquired; the date on which the firearm was disposed of; and the name and address (or federal firearms license number or Form 4473 transaction number) of the person to whom the dealer transferred the firearm.

9. In addition to A&D records, an FFL is required to obtain a completed ATF Form 4473 (the "Firearms Transaction Record") from the actual buyer and complete portions of the form itself before the FFL can transfer or sell a firearm to any unlicensed person. An FFL may not complete a transfer to an unlicensed person without conducting a background check and recording the information on the Form 4473 or recording the unlicensed person's permit that qualified as an alternative to a NICS check on the form.

#### **FACTS SUPPORTING FOREFEITURE**

10. Rimfire Resale and Pawn, LLC is a FFL operating at 4601 134th Avenue, Hamilton, Michigan. On January 7, 2010, Rimfire Resale and Pawn, LLC, through its listed responsible parties, Ricky Lee Hoek and Timothy Scott VanWieren, was granted FFL 4-38-005-02-9B-05140 by ATF. With this FFL, Hoek and VanWieren engaged in the business of dealing firearms as Rimfire Resale and Pawn, LLC.

11. In June 2017, ATF received information from the Allegan County Sheriff's Office that Rimfire Resale and Pawn might be selling firearms without requiring identification or other required paperwork.

12. Subsequently, on or about August 17, 2017, Michigan State Police Detective Waterway, acting in an undercover capacity, went to Rimfire Resale and Pawn and purchased a Harrington and Richardson, Model Topper 88, bearing serial number AU477395. Rimfire Resale and Pawn did not conduct a NICS background check or record a qualified permit, as required by law, and failed to complete Form 4473.

13. On or about August 24, 2017, ATF Special Agent Westra and Detective Waterway, both acting in an undercover capacity, went to Rimfire Resale and Pawn to make

another purchase. SA Westra indicated to VanWieren that he intended to purchase a rifle for himself, and that Detective Waterway wanted to get a handgun. SA Westra also informed VanWieren that it was his desire to purchase firearms without having any documentation associated. VanWieren informed SA Westra that he could sell any of the long guns without documentation but that he needed to document all handgun sales. During the transaction, Detective Waterway claimed he did not have his driver's license. VanWieren indicated SA Westra would have to purchase the gun for Detective Waterway using his license. SA Westra purchased a rifle bearing serial number WW118378 without completing Form 4473. SA Westra purchased a HighPoint Model C9 9mm pistol bearing serial number P10002483 for Detective Waterway. VanWieren instructed SA Westra to fill out Form 4473 but coached SA Westra how to lie on the form to "correctly" answer the questions. SA Westra made it clear to VanWieren that he was purchasing the pistol for Detective Waterway.

14. On or about September 7, 2017, ATF executed a federal search warrant at Rimfire Resale and Pawn. VanWieren was present during the search. ATF informed VanWieren that he was not under arrest and that he was free to leave. ATF also informed VanWieren that he and Rimfire Resale and Pawn were under investigation for failing to complete acquisition and disposition paperwork as required by law and failing to conduct criminal background checks as part of firearms transactions.

15. VanWieren spoke with ATF investigators during the search. VanWieren admitted that he was not filling out the required acquisition and disposition paperwork for long guns. VanWieren stated his belief that if private party long gun sales can transpire without



paperwork or a background check, he believe dealers should be able to do the same. VanWieren also admitted that in the past, he had permitted straw purchases of handguns.

16. ATF seized Rimfire Resale and Pawn's acquisition and disposition logbook and the Defendant Firearms during the search.

17. None of the Defendant Firearms were recorded in Rimfire Resale and Pawn's acquisition and disposition logbook. VanWieren and/or others working at Rimfire Resale and Pawn willfully failed to keep accurate acquisition and disposition records for the Defendant Firearms, as required by law.

#### **CLAIM**

##### **(Forfeiture of Firearms Involved in a Violation of 18 U.S.C. § 922(m))**

18. Plaintiff hereby re-alleges paragraphs numbered 1 through 17, as referenced above.

19. The Defendant Firearms are subject to forfeiture to the United States pursuant to 18 U.S.C. §924(d)(1) because they were involved in a willful violation of 18 U.S.C. § 922(m).

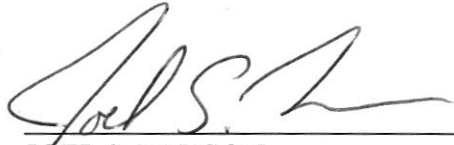
#### **RELIEF**

Wherefore, the United States prays that the usual process for forfeiture issue against the Defendant Firearms; that due notice be given to all interested parties to appear and show cause why forfeiture to the United States of America should not be decreed; that the Defendant Firearms be condemned and forfeited to the United States of America and be delivered into the custody of the Bureau of Alcohol, Tobacco, Firearms and Explosives for disposition according to law, and for such other relief as this Court may deem just and proper.

ANDREW BYERLY BIRGE  
United States Attorney



Dated: February 1, 2018



JOEL S. FAUSON  
Assistant United States Attorney  
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**VERIFICATION**

I am a Special Agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and one of the agents assigned the responsibility for this case.

I have read the contents of the foregoing Verified Complaint for Forfeiture *in Rem* and the statements contained therein are true to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 1, 2018



JEFF KITCHEN  
Special Agent  
Bureau of Alcohol, Tobacco, Firearms, and  
Explosives